

APPEAL NO. 032323
FILED OCTOBER 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 29, 2003. The hearing officer determined that: (1) the appellant (claimant) did not sustain a compensable injury to and including his right wrist, right carpal tunnel syndrome, and/or a right TFCC tear on _____; and (2) the claimant does not have disability. The claimant appeals these determinations on sufficiency of the evidence grounds and asserts evidentiary and procedural errors. The respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determinations. Whether the claimant was injured in the course and scope of his employment and the extent of injury were questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's injury and extent-of-injury determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Because the claimant did not sustain a compensable injury, the hearing officer properly concluded that he did not have disability. Section 401.011(16).

As indicated above, the claimant contends that he did not have adequate time to prepare for the hearing and objects to the admission of the carrier's documentary evidence asserting that it was not timely exchanged. The claimant did not raise these matters at the hearing below. Any error was, therefore, waived and will not be addressed for the first time on appeal.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSEL R. OLIVER, PRESIDENT
221 WEST 6TH STREET
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge